



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 22, 2004

Sergeant Theresa Lock
Support Services
Williamson County Sheriff's Office
508 South Rock Street
Georgetown, Texas 78626

OR2004-8117

Dear Sgt. Lock:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 209645.

The Williamson County Sheriff's Office (the "sheriff") received a request for information pertaining to case number C04-04-2727. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," and encompasses information made confidential by other statutes. You contend that the submitted information is confidential under section 58.007 of the Family Code, which makes confidential juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. *See* Fam. Code § 58.007. However, section 58.007 is inapplicable when an incident does not involve a suspect or offender who is a "child" as defined by section 51.02 of the Family Code. A "child" is a person who is:

- (A) ten years of age or older and under 17 years of age; or
- (B) seventeen years of age or older and under 18 years of age who is alleged or found to have engaged in delinquent conduct or conduct indicating a need for supervision as a result of acts committed before becoming 17 years of age.

Fam. Code § 51.02(2). Here, the individual identified as the suspect in the submitted documents was eighteen, and therefore not a juvenile, at the time of the incident. Therefore, the submitted information is not confidential under section 58.007 of the Family Code and may not be withheld under section 552.101 on that basis.

Next, you contend that the submitted information is excepted under section 552.108 of the Government Code. Specifically, you state that “[s]ection 552.108 addresses juvenile information . . . [t]his section states, juvenile offender records are expressly confidential under section 58.007 of the Family Code.” As noted above, section 58.007 of the Family Code is not applicable to the submitted information. Section 552.108 of the Government Code, as applied to information pertaining to records of a law enforcement agency concerning a criminal investigation, provides in pertinent part as follows:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication;

....

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Gov’t Code § 552.108(a), (c). A governmental body that raises section 552.108 must reasonably explain how and why section 552.108 is applicable to the information at issue. *See* Gov’t Code § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Open Records Decision No. 434 at 2-3 (1986). Section 552.108(a)(1) typically may be applicable to information relating to a pending criminal investigation. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Section 552.108(a)(2) typically may be applicable to information pertaining to a criminal investigation that has concluded in a final result other than conviction or deferred adjudication. In all cases, a governmental body seeking to withhold information pursuant to section 552.108 must meet its burden of explaining how and why release of the requested information would interfere with law enforcement and

crime prevention. *See* Open Records Decision No. 562 at 10 (1990) (construing statutory predecessor).

In this case, you do not state that the submitted information relates to a pending criminal investigation, or to a criminal investigation that has concluded in a final result other than conviction or deferred adjudication. You have not explained how release of the submitted information would interfere with "the detection, investigation, or prosecution of crime." Thus, we find you have failed to establish that section 552.108 is applicable to the submitted information. We therefore determine that the sheriff may not withhold any portion of the submitted information pursuant to section 552.108 of the Government Code. *See* Gov't Code § 552.301(e)(1)(A); *Ex parte Pruitt*, 551S.W.2d 706 (Tex. 1977); Open Records Decision No. 434 at 2-3 (1986).

Next, you contend that social security numbers in the submitted documents are excepted under section 552.101 of the Government Code. A social security number may be withheld in some circumstances under section 552.101 in conjunction with the 1990 amendments to the federal Social Security Act, section 405(c)(2)(C)(viii)(I) of title 42 of the United States Code. *See* Open Records Decision No. 622 (1994). These amendments make confidential social security numbers and related records that are obtained or maintained by a state agency or political subdivision of the state pursuant to any provision of law enacted on or after October 1, 1990. *See id.* From our review of your comments, it appears you are asserting that the social security numbers at issue are confidential pursuant to section 58.001 of the Occupations Code. Section 58.001 provides as follows:

The social security number of an applicant for or holder of a license, certificate of registration, or other legal authorization issued by a licensing agency to practice in a specific occupation or profession that is provided to the licensing agency is confidential and not subject to disclosure under Chapter 552, Government Code.

Occ. Code § 58.001. We note, however, that section 58.001 is only applicable to information maintained by a licensing agency and is therefore not applicable to information maintained by the sheriff. Because you have not raised any confidentiality provision that is applicable to the sheriff for the social security numbers at issue, we determine the sheriff must release them to the requestor.

Finally, we note that the submitted documents contain information that is excepted from disclosure under section 552.130 of the Government Code. Section 552.130 of the Government Code provides in pertinent part:

(a) Information is excepted from the requirements of Section 552.021 if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]

(2) a motor vehicle title or registration issued by an agency of this state[.]

Gov't Code § 552.130. The sheriff must withhold the Texas driver's license and motor vehicle title and registration information we have marked in the submitted documents under section 552.130 of the Government Code.

In summary, the sheriff must withhold the Texas motor vehicle driver's license, title, and registration information we have marked in the submitted documents pursuant to section 552.130 of the Government Code. The sheriff must release the remainder of the submitted information to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within thirty calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within ten calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within ten calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within ten calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within ten calendar days of the date of this ruling.

Sincerely,



David R. Saldivar
Assistant Attorney General
Open Records Division

DRS/seg

Ref: ID# 209645

Enc: Submitted documents

c: Ms. Tena Peterson
16634 Malaga Hills Drive
Round Rock, Texas 78681
(w/o enclosures)